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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/064,146

06/14/2002

Mark A. Kappel

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06/16/2004

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EXAMINER

PHAN, THIEM D

ART UNIT

PAPER NUMBER

3729

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/064,146	Applicant(s) KAPPEL ET AL.	
	Examiner Tim Phan	Art Unit 3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicants' election with traverse of Group I, Claims 1-13, filed in 22nd April 2004 is acknowledged.

The Restriction mailed on or about 14th April 2004 has been carefully reviewed and is held to be proper since the statement: "the process as claimed can be practiced by another materially different apparatus or by hand" means that an ordinary skill in the art can manually perform the function with a simple device such as a pair of pliers. Due to the lack of traversal on the merits, applicants' election of Group I, claims 1-13, has been treated as an election without traverse.

Accordingly, Claims 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim.

The Restriction filed on or about 14th April 2004 is hereby **made Final**.

Applicants are required to cancel these nonelected claims (14-17) or take other appropriate action.

An Office Action on the merits of Claims 1-13 now follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Omand (US 4,660,281) hereinafter '281.

As applied to claim 1, the '281 teaches an extracting tool, comprising:

- a piston assembly (Cf. Fig. 2, 15) having a channel therethrough;
- a cross-member (Cf. Fig. 2, 20) slidably receiving said piston assembly (Cf. Fig. 2, 15), said cross-member having a slot for pins(Cf. Fig. 5, 23) therein, said cross-member having a post head (Cf. Fig. 2, 42a) sized to be received within said retraction feature; and
- a pin (Cf. Fig. 5, 23) positioned within said channel and slidably received within said slot.

As applied to claim 2, the '281 teaches a piston having a first and second end (Cf. Fig. 5, ends of 15).

As applied to claim 3, the '281 teaches that the piston assembly has a handle (Cf. Fig. 2, 16) disposed on a first end.

As applied to claim 4, the '281 teaches that a channel (Cf. Fig. 5, under 20) is disposed on a second end of the piston (Cf. Fig. 5, 15).

As applied to claim 5, the '281 teaches that the piston assembly comprises a grip (Cf. Fig. 5, 52 & 12) having an opening (Cf. Fig. 5, 25a) therethrough for slidably receiving said piston therethrough.

As applied to claim 7, the '281 teaches a first and second post (Cf. Fig. 1, 42a & 42b).

As applied to claim 8, the '281 teaches that the pin (Cf. Fig. 5, 23) has an angular shape.

As applied to claim 9, the '281 teaches that the posts comprise a mounting post (Cf. Fig. 5, 42a) and a cylindrical portion (Cf. Fig. 5, 62).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the '281.

As applied to claim 6, the '281 teaches the claimed invention, except for having a spring positioned on said piston (Cf. Fig. 2, 15) between said handle (Cf. Fig. 2, 16) and said grip (Cf. Fig. 5, 52), said spring urging said handle away from said grip.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a spring positioned on said piston between said handle and said grip, said spring urging said handle away from said grip, since it was known in the art that a pair of springs (Cf. Fig. 5, 55 & 56) mounted at the post-heads (Cf. Fig. 5, 42 & 44) would provide the same functionality as the claimed spring on the piston (Cf. Fig. 5, 15).

As applied to claim 10, the '281 teaches an extracting tool, comprising:

- a piston (Cf. Fig. 5, 15) having a handle (Cf. Fig. 5, 16) disposed on a first end and a channel (Cf. Fig. 5 under 20) disposed on a second end;
- a grip (Cf. Fig. 5, 52) having an opening (Cf. Fig. 5, 25a) therethrough for slidably receiving said piston;
- a cross-member (Cf. Fig. 5, 20) adjacent to said sleeve, said cross-member having a slot therein, said cross-member having a post head (Cf. Fig. 5, 42a); and

- a pin (Cf. Fig. 5, 23) positioned within said channel and slidably received within said slot, except for a spring positioned on said piston between said handle and said grip, said spring urging said handle away from said grip and a sleeve adjacent to the grip for slidably receiving the piston.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a spring positioned on said piston between said handle and said grip, said spring urging said handle away from said grip and a sleeve adjacent to the grip for slidably receiving the piston, since it was known in the art that a pair of springs (Cf. Fig. 5, 55 & 56) mounted at the post-heads (Cf. Fig. 5, 42 & 44) with a pair of sleeves (Cf. Fig. 5, 55 & 56) for sliding the posts (Cf. Fig. 5, 42) would provide the same functionality as the claimed spring on the piston (Cf. Fig. 5, 15).

As applied to claim 11, the '281 teaches a first and second post (Cf. Fig. 1, 42a & 42b).

As applied to claim 12, the '281 teaches a first and second post (Cf. Fig. 1, 42a & 42b).

As applied to claim 13, the '281 teaches that the posts comprise a mounting post (Cf. Fig. 5, 42a) and a cylindrical portion (Cf. Fig. 5, 62).

Art Unit: 3729

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Phan whose telephone number is 703-605-0707. The examiner can normally be reached on M - F, 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

TP

Tim Phan
Examiner
Art Unit 3729

tp
June 10, 2004

Cja
CARL J. ARBES
PRIMARY EXAMINER